



May 7, 2024

**Via ECF**

The Honorable Laura Taylor Swain  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007-1312

**Re: *Fanatics Collectibles TopCo, Inc. v. Panini S.p.A.*, No. 1:23-cv-06895 (S.D.N.Y. 2023); *Panini America, Inc. v. Fanatics, Inc. et al.*, Case No. 1:23-cv-09714 (S.D.N.Y. 2023)**

Dear Chief Judge Swain:

We write in response to Fanatics's letter, dated May 6, 2024 (ECF No. 56), asking the Court to reopen the settled issue that this case should be assigned based on the established first-filed action rule. This issue was briefed and decided nearly six months ago, on November 15, 2023, when Fanatics's second-filed action (*Fanatics Collectibles TopCo, Inc. v. Panini S.p.A.*, No. 23-cv-06895) was reassigned from Judge Vyskocil to Judge Rearden, the same judge adjudicating Panini's first-filed action (*Panini Am., Inc. v. Fanatics, Inc. et al.*, No. 23-cv-09714). *See* Panini Letter, ECF No. 25, Case No. 1:23-cv-09714 (Nov. 7, 2023); Fanatics Letter, ECF No. 26, Case No. 1:23-cv-09714 (Nov. 8, 2023); Panini Response, ECF No. 27, Case No. 1:23-cv-09714 (Nov. 9, 2023); Fanatics Response, ECF No. 28, Case No. 1:23-cv-09714 (Nov. 10, 2023).

As noted in these letters submitted to both Judge Vyskocil and Judge Rearden, when a party files a federal lawsuit with claims "logically connected" to those in an already pending federal suit, the second-filed action must either be stayed or refiled in the first-filed suit. *See* ECF No. 25, 1:23-cv-06895 (Nov. 8, 2023) (citing *Adams v. Jacobs*, 950 F.2d 89 (2d Cir. 1991)). This rule is important to avoid forum shopping. The ultimate reassignment of Fanatics's action to Judge Rearden reflected that the Southern District's Rules for the Division of Business Among District Judges should not be applied in a manner that is inconsistent with the Federal Rules of Civil Procedure and contrary to established caselaw requiring that related claims be raised in the first-filed action. Courts in this district have expressly recognized that the Southern District's "lowest docket number rule" is inapplicable when addressing the assignment of similarly situated cases. *See* ECF No. 25 (citing *Internet Law Library, Inc. v. Southridge Cap. Mgmt. LLC*, 208 F.R.D. 59 (S.D.N.Y. 2002)). To the extent Fanatics implies that the case in front of Judge Vyskocil had substantively progressed while it was assigned to her, that is not correct.

The request by Fanatics should be denied.

**BSF**

Respectfully submitted,

/s/ David Boies

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cc: Counsel of Record